

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE	)	Chapter 7
	)	
MICHAEL S. HELMSTETTER,	)	Case No. 19 – 28687
	)	
Debtor.	)	Hon. Jacqueline P. Cox
	)	
	)	
	)	

**NOTICE AND CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, hereby state that pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System, I caused a copy of the attached **NOTICE OF PROPOSED SALE OF CAUSES OF ACTION** to be served on all persons set forth on the attached Service List and identified as Registrants through the Court's Electronic Notice for Registrants, and, as to all other persons on the attached Service List by mailing a copy of same in an envelope properly addressed and with postage fully prepaid and by depositing same in the U.S. Mail, Chicago, Illinois on the 22<sup>nd</sup> day of December 2021.

/s/ Gregory K. Stern

Gregory K. Stern

Gregory K. Stern (Atty. ID #6183380)  
Dennis E. Quaid (Atty. ID #02267012)  
Monica C. O'Brien (Atty. ID #6216626)  
Rachel S. Sandler (Atty. ID #6310248)  
53 West Jackson Boulevard  
Suite 1442  
Chicago, Illinois 60604  
(312) 427-1558

## SERVICE LIST

### Registrants Served Through The Court's Electronic Notice For Registrants

Patrick S. Layng  
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219 South Dearborn Street, Room 873  
Chicago, Illinois 60604

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Dyer, Indiana 46311

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Law Office of Wm J. Factor, Ltd  
105 W. Madison, Ste 1500  
Chicago, IL 60602

Victor J. Allen  
Justin Mertz  
Michael Best & Friedrich, LLP  
790 N. Water St., Ste 2500  
Milwaukee, WI 53202

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Johnson Legal Group LLC  
140 S. Dearborn St., Ste 1510  
Chicago, IL 60603

**Parties Served By United States Mail**

Michael Helmstetter  
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ADG  
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Chicago, IL 60601

J. Kevin Benjamin  
Benjamin Legal Services, PLC  
1015 West Jackson Blvd.  
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Chase Card Services  
P.O. Box 15298  
Wilmington, DE 19850

FCA, aka Fiat  
c/o Quarles & Brady  
300 N. LaSalle Street, Suite 4000  
Chicago, Illinois 60654

Ft. Worth Brothers Automotive LLC  
c/o Burke Warren McKay Serritella  
330 N. Wabash, 21st Floor  
Chicago, IL 60611

Terry Gaouette  
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Greendale, WI 53129

Illinois Department of Revenue  
Bankruptcy Unit  
PO Box 19035  
Springfield, IL 62794-9035

IRS  
PO BOX 7346  
Philadelphia, PA 19101-7346

Monroe Capital  
311 South Wacker Drive, Suite 64  
Chicago, Illinois 60606

Oak Group bba Warranty Sol'n Mngt Corp  
7125 W. Jefferson Ave., Suite S-200  
Denver, CO 80235

Oceantime LLC  
3208 NE 10th Street  
Pompano Beach, FL 33062-3908

O'Rourke & Moody  
c/o Michael C. Moody  
55 West Wacker Drive, Suite 1400  
Chicago, Illinois 60601

Painted Sky/Adam Wimmer  
1225 17<sup>th</sup> Street, Suite 2650  
Denver, CO 80202

Pearl Capital Business Funding, LLC  
525 Washington Blvd, 22nd Floor  
Jersey City, NJ 07310

Premium Business Solutions  
8019 N. Himes  
Tampa, Florida 33611

Reyna Capital Corporation  
One Reynolds Way  
Kettering, OH 45430

Ridgestone Bank  
500 Elm Grove Road, Suite 102  
Elm Grove, WI 53122

Ronald Richardson  
329 W. 18<sup>th</sup> Street  
Chicago, Illinois 60616

Ultegra Financial Partners, Inc.  
1009 18<sup>th</sup> Street, Suite 2860  
Denver, CO 80202

West Lake Financial Services  
4751 Wilshire Blvd., Suite 100  
Los Angeles, CA 90010

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE:	)	Chapter 7
	)	
MICHAEL HELMSTETTER,	)	Case No. 19-28687
	)	
Debtor.	)	Hon. Jacqueline Cox
	)	U.S. Bankruptcy Judge
	)	<u>Hearing Date and Time:</u>
	)	<b>January 11, 2022 at 1:30 p.m.</b>

NOTICE OF PROPOSED SALE OF CAUSES OF ACTION

To: The United States Trustee; Michael Helmstetter, Debtor, the Twenty Largest Creditors, Interested Parties, and Counsel of Record.

Please take notice that DAVID R. HERZOG, Chapter 7 Trustee herein, has filed a Motion with this court seeking authorization to sell free and clear of all interests, claims, liens and encumbrances pursuant to Section 363(f) of the Bankruptcy Code, certain designated causes of action (the "Sale"). A hearing was held on December 21, 2022 at which the Court granted the Amended Order Approving Bid Procedures For Sale of Causes of Action, Limiting Notice and Setting Final Hearing to Consider Approval of Sale (the "Order"). The approved Bid Procedures for the Sale is attached hereto.

A hearing will be held on **January 11, 2022, at 1:30 p.m.**(local Chicago Time), before the Honorable Jacqueline P. Cox, or any judge sitting in Judge Cox's place, on the Trustee's Motion and report of the bids received to purchase each individual cause of action. This hearing will be held electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard, you must do the following: To appear by video, (1) use this link: <https://www.zoomgov.com/>. (2) Enter the meeting ID 1612732896. (3) Enter the passcode 778135. To appear by telephone, (1) call Zoom for Government at 1-669-254-5252 or 1-646- 828-7666. (2) Enter the meeting ID 1612732896. (3) Enter passcode 778135. When prompted identify yourself by stating your full name. To reach Judge Cox's web page go to [www.ilnb.uscourts.gov](http://www.ilnb.uscourts.gov) and click on the tab for Judges.

For further information, contact the undersigned.

Dennis E. Quaid, Esq.,  
One of the attorneys for the Trustee  
53 W. Jackson Blvd., Suite 1442,  
Chicago, IL 60604,  
Phone 312-427-1558.

**EXHIBIT A**

**BIDDING PROCEDURES**

DAVID R. HERZOG, not individually, but solely in his capacity as the Chapter 7 Trustee ("Seller") of the bankruptcy estate of Michael Helmstetter (the "Debtor"), has sought authority from the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court") to sell (the "Sale") the following assets:

Causes of Action

The entire and most expansive extent of the Trustee, Debtor and estate of the Debtor's right, title and interest, if any, that Michael Helmstetter has the right on his own behalf to prosecute in certain causes of actions against the following individuals and entities:

- A. Santander Bank, N.A. – Scheduled Damages of \$7.9 Million
- B. F.C.A., a/k/a Fiat – Scheduled Damages of \$7.9 Million
- C. 2401 S. Michigan Building Corporation, County Mayo Corporation and Maureen Joyce – Scheduled Damages of \$1.7 Million for wrongs including without limitations, claims, if any, for fraudulent misrepresentation, bad faith and fraudulent inducement by omission of material facts in connection with the execution of the leases for New City premises, claims, if any, in contract and/or replevin for return of security deposits, claims, if any, for conversion of personal property located on the New City premises and claims, if any, for trespass and/or "self-help" in connection with entry on to New City premises.
- D. Nissan North America/Nissan Motor Acceptance Corporation – Scheduled Damages of \$2 Million
- E. Benitta Berke – Unknown Damages
- F. Keri Fallon – Scheduled Damages of \$91,000.00
- G. Terry Gaouetter – Scheduled Damages of \$3 Million
- H. O'Rourke & Moody – Unknown Damages
- I. World Business Lenders and Ultegra – Scheduled Damages of \$1,500,000.00
- J. Ronald Richardson – Scheduled Damages of \$3.5 Million
- K. Adam Wimmer & Painted Sky – Scheduled Damages of \$1.5 Million
- L. Monty Merz – Unknow Damages



M. Monroe Capital – Scheduled Damages of \$50,000.00

N. Kevin Benjamin – Unknown Damages.

(collectively referred to as “Causes of Actions” or individually as “Cause of Action”)

Seller shall offer for sale each of the Causes of Action as individual lots. Seller will seek the entry of a final order approving the sale of the Causes of Action (“**Sale Order**”) to the highest and best offer(s) in accordance with the following bidding and sale procedures:

#### Due Diligence

1. To the extent available and within his possession and/or control, Seller will make available financial and such other information concerning the Causes of Action.

#### Participation Requirements & Sales Process

##### Submission of Bids

2. In order to be a “Qualified Bidder,” any such bidder shall be required to submit the following to the Seller, c/o Gregory K. Stern, P.C., 53 West Jackson Blvd., Suite 1442, Chicago, Illinois 60604, email greg@gregstern.com (Attn.: Greg Stern), on or before **5:00 p.m. (prevailing central time) on January 4, 2022**: (a) its best and highest offer for the purchase of any individual Cause of Action, in writing (the “**Bid**”); and (b) a wire transfer or cashier’s or certified check in the amount equal to 50% of the Bid (“**Deposit**”), payable to Seller (to be held in the Seller’s Counsel’s IOLTA account).

3. To the extent that Seller receives multiple Bids on any individual Cause of Action, an Auction, as more fully defined below, will be held related to that Cause of Action. In the event that the Seller receives only one Bid for any Cause of Action, such Bid will be recommended for approval as the best and highest Bid at the Sale Hearing.

##### Auction and Selection of Winning Bid

4. The Auction will be held via Zoom on **January 6, 2022** at the offices of Gregory K. Stern, PC, 53 W. Jackson Blvd, Suite 1442, Chicago, Illinois 60604 at **11:00 a.m. (Central)**. The only persons who will be permitted to bid at the Auction are those bidders who qualify as Qualified Bidders, as defined above. All bids shall be made as a matter of record and all upset bids must be in an amount at least 10% higher than the existing highest Bid for any individual Cause of Action.

5. After January 6, 2022, the Seller and his representatives will engage in an analysis of the Bids to determine which Qualified Bid(s) is, in their collective best judgment, the highest and best offer(s) (each a “**Winning Bid(s)**”). A Qualified Bidder(s) making a Winning Bid(s) is hereinafter referred to as a “**Winning Bidder(s)**.” A Qualified Bidder making the second highest and best offer (the “**Back-Up Bid(s)**”) is referred to as the “**Back-Up Bidder(s)**.” At the conclusion of the Bid Analysis, Seller will ask the Court to enter an order (“**Sale Order**”) at the



Sale Hearing (defined below) authorizing Seller to consummate the sale of the Causes of Action or any individual Cause of Action upon the terms of a Winning Bid(s), with a Winning Bidder(s) (and the terms of a Back-Up Bidder(s) if a Winning Bidder(s) does not close), and to execute such additional documentation as is reasonably necessary to close such sale upon the terms of a Winning Bid(s) and a Back-Up Bid(s).

6. In order to participate at the Auction, and in addition to such other requirements set forth herein, all Qualified Bidders shall be deemed to have agreed to keep their bid(s) open and in full force and effect through and including the Sale Hearing (as hereinafter defined).

#### **Sale Hearing**

7. A final hearing ("Sale Hearing") to obtain authorization to accept and approval of the Winning Bid(s) and Back-Up Bid(s) through the entry of the Sale Order, shall commence on **January 11, 2022 at 1:30 p.m. (prevailing central time)** before the Honorable Jacqueline P. Cox via Zoom for government. The Sale Hearing may be continued from time to time without further notice other than by announcement in open court.

8. A Winning Bid(s) shall have been accepted by Seller only upon entry of the Sale Order approving the Sale to the Winning Bidder(s) and Seller will not be obligated to take any action related to the sale of the Causes of Action unless and until the Court enters the Sale Order, which must be in form and substance reasonably satisfactory to Seller. Seller's presentation to the Court for approval of a Winning Bid(s) does not constitute Seller's acceptance thereof.

9. Upon the Court's entry of the Sale Order, a Winning Bidder(s) shall become a "**Purchaser(s).**"

#### **Other Material Terms and Conditions**

10. In the event that a Winning Bidder(s) defaults in the performance of its obligation to purchase the Causes of Action pursuant to a Winning Bid(s), that Qualified Bidder's Deposit shall be forfeited and shall be immediately transferred to Seller. Notwithstanding the foregoing, such forfeiture shall not be in full satisfaction of any damages caused to any person by a Winning Bidder's default as described herein. Any Qualified Bidder(s) making a Deposit who is not a Winning Bidder(s) or a Back-Up Bidder(s) (as the Winning Bidder(s) is specified in the Sale Order) shall have its Deposit returned within two (2) business days after a Winning Bidder(s) closes the sale of the Causes of Action or any individual cause of action.

11. The remaining balance of the Bid shall be due and payable to the Seller at the closing of the sale of the Causes of Action or any individual cause of action, which shall take place on the fifteenth (15<sup>th</sup>) day after the entry of the Sale Order.

12. In the event that a Winning Bidder(s) defaults in the performance of its obligations to purchase the Causes of Action pursuant to a Winning Bid(s), then Back-Up Bidder(s) shall be required to proceed as a Winning Bidder(s) with its Back-Up Bid(s). Consequently, a Back-Up Bid(s) will be treated as a Winning Bid(s), without further notice, hearing or entry of any additional order by the Court.

13. The offers of all Qualified Bidders shall be irrevocable until the earlier of (a) the closing of the sale of the Causes of Action or any individual cause of action, or (b) the withdrawal by Seller of the Causes of Action or any individual cause of action from the sale.

14. Any sale of the Causes of Action or any individual cause of action pursuant to the Sale Order shall be free and clear of all claims, liens and interests (collectively, "Interests") (unless otherwise agreed to by such Winning Bidder(s) and Seller), with such Interests attaching to the proceeds of the Sale (the "Sale Proceeds") in the same nature, extent and priority as those Interests enjoyed prior to the sale.

15. Seller may determine, in exercise of his business judgment, which Bid(s), if any, is the highest or otherwise best offer after considering all relevant factors, including, without limitation, any applicable fees and their impact on the net recovery to the estate; and he may reject at any time before entry of a Court order approving a Qualified Bid(s), any bid that, in Seller's sole discretion, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the terms and conditions of sale, or (iii) contrary to the best interests of Debtor's bankruptcy estate, and its creditors. Each Qualified Bidder shall be deemed to have irrevocably and unconditionally submits to the exclusive, *in personam*, jurisdiction of the Bankruptcy Court in connection with any dispute, claim, controversy, suit, action or proceeding arising out of or relating to the Auction or the Bidding Procedures.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS

IN THE MATTER OF: ) CHAPTER 13  
Elia Martinez )  
 ) CASE NO. 21-13941  
Debtor(s) )

AFFIDAVIT OF COMPLIANCE

State of Illinois )  
County of Cook )

The Debtor, Elia Martinez, in the above captioned case being duly sworn upon oath, deposes and state as follows: (Check all applicable statements)

1. XX A. Since the filing of this bankruptcy, I have not been required by a judicial or administrative order, or by statute to pay any domestic support obligation as defined in 11 U.S.C. §101 (14A).

OR

       B. I have paid all amounts that first became due and payable after the filing of this bankruptcy, which I am required to pay under a domestic support obligation [as defined in 11 U.S.C. §101 (14A)] required by a judicial or administrative order, or by statute.

2. XX C. I have filed all State and local tax returns required by law to be filed for all taxable periods ending during the 4-year period prior to filing of this bankruptcy, or, if I have not filed a tax return for any of the 4 years, I was not required to file a tax return for those years.

By signing this affidavit, I acknowledge that all of the statements contained herein are true and accurate and that the Court may rely on the truth of each of these statements in determining whether to confirm the Chapter 13 Plan. The Court may revoke confirmation of the Chapter 13 Plan if the statements relied upon are not accurate.

FURTHER AFFIANT SAYETH NOT:

/s/ Elia Martinez  
Debtor

Subscribed and sworn to before me this 21<sup>st</sup> day of December, 2021

/s/ Monica O'Brien  
Notary Public

My Commission Expires: 12/04, 2022



